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23 April 1954

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MEMORANDUM FOR: Acting Deputy Director (Administration)

SUBJECT: Proposed Legislation Amending Certain Provisions of the Federal Employees' Pay Act of 1945 and the Classification Act of 1949

REFERENCE: Memorandum from Deputy Assistant Director for Personnel to Legislative Counsel dated 12 February 1954 (enclosed)

1. The Deputy Assistant Director's memorandum comprises his comments on S. 2665, a bill "To Amend the Classification Act of 1949, as amended, and the Federal Employees' Pay Act of 1945, as amended, and for other purposes." The proposed statute is divided into five titles. Generally speaking, these deal with:

- a. (Title I) Wages and fiscal administration of employees from the crafts, protective and custodial schedule and longevity matters;
- b. (Title II) Overtime, night differential and so-called "Premium Compensation;"
- c. (Title III) Incentive Awards;
- d. (Title IV) Uniform allowances for employees required to wear uniforms; and
- e. (Title V) Repeal of the Whitten Amendment

The bill favorably has been reported out of committee (Senate Committee on Post Office and Civil Service) and now is awaiting discussion on the floor of the Senate. The interest of this Agency in the bill lies in the consideration of whether or not we wish to support, or oppose, it, in whole or in part.

2. There follow the comments of this office. These do not purport to be all-inclusive but, rather, supplement the comments of the DAD/P and deal with those parts of the proposed legislation which, in our opinion, are of immediate interest to this Agency. For an over-all

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summary of the bill, it is suggested that pages 1 through 12 of the accompanying Senate Report be read.

3. Title I, "The Classification Act Amendments of 1954", amends certain sections of the Classification Act of 1949 (63 Stat. 954, 5 USC 1112 et seq.), as amended. While this Agency specifically is exempted from the 1949 Act (by Section 202 (16) thereof) pursuant to our intention is stated to " . . . adhere to the provisions of this Act insofar as possible." And there would appear to be little to be gained by not adopting so much of proposed Title I as has to do with more favorable longevity benefits for CIA employees. Also, the 1949 Act does apply to the General Services Administration. The "crafts, protective and custodial schedule," whose employees perform construction and maintenance work on CIA buildings, work for the General Services Administration. The GSA in turn bills CIA for this work. And the proposed legislation relieves these employees from the wage schedules set out in the 1949 Act and provides that their compensation:

" . . . shall be fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates." (Emphasis supplied)

At page 6 of the Senate Report on the bill, this provision is interpreted as meaning that:

" . . . such employees shall be paid on a local prevailing rate basis." (Emphasis supplied)

Since there is a differential of 25% or 30% between wages paid such employees under the 1949 Act and the wages prevailing in the Washington labor market for similar work, it will be seen that GSA's labor bills to this Agency for construction and maintenance work performed by it in the Washington area will increase proportionately.

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4. Title II, "Premium Compensation" amends certain provisions of the Federal Employees' Pay Act of 1945 (59 Stat. 295, 5 USC 901), notably having to do with compensation for overtime night and holiday work. Generally it increases the employee benefits incident to all of these. Here again the Agency is faced with the probability of increased administrative costs. And here, because the contrary belief seems to prevail in some quarters, we wish to make it plain that the 1945 Act does apply to CIA. The opposite view is predicated on certain of the Civil Service Regulations (5 CFR 25.201, et seq. (1952 Supp.)) which are declared by the Civil Service Commissioner not to be applicable to this Agency. Without going too deeply into the matter, we wish to point out that the declaration by the Commissioner that his regulations, issued under the authority of the statute and for its procedural implementation, do not apply to this Agency in no wise operates to relieve the Agency from substantive provisions of the statute itself. We note that the new legislation considerably tightens the definition of compensable overtime work provided by existing law. This may be of interest in connection with proposed regulations having to do with the compensation of overtime spent in connection with training.

5. Title III, "Government Employees' Incentive Awards," repeals all existing laws governing incentive awards. Of interest to CIA is the included repeal of Section 702 of the Classification Act of 1949 which authorizes within-grade salary step increases for superior accomplishments. Also, the incentive awards program proposed is to be:

" . . . carried out under such regulations and instructions as may be issued by the United States Civil Service Commission . . . "

Under the current regulations in this Agency, a within-grade salary step increase for superior accomplishment is a facet of its incentive-awards program.

The CIA program is administered exclusive of the regulatory, or instructional, jurisdiction of the Civil Service Commissioner.

6. While Titles I and II of the proposed legislation augur increased administrative costs for the Agency, it would appear that CIA is in no position to argue for or against the increases. With regard to Title III, we again feel that we are in no position to support or object. There would appear to be ample reasons for the Agency to be left free to administer its incentive awards program in a manner perhaps parallel to, but not completely adoptive of, regulations issued by the Civil Service Commissioner. Under the terms of the law, this exemption presumably could be accomplished at the regulatory, or the Commissioner's, level.



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